

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

DEFENDING THE REPUBLIC,

§

Plaintiff,

§

vs.

§

Civil Action No. 3:23-cv-276

FEDERAL BUREAU OF INVESTIGATION,

§

Defendant.

§

**COMPLAINT**

Plaintiff, Defending the Republic (“DTR”), brings this action against the Federal Bureau of Investigation (“FBI”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and alleges as follows:

**INTRODUCTION**

1. Recently, there have been concerning reports about the FBI’s efforts to suppress speech during the 2020 election by pressuring social media companies to remove content it deemed objectionable. This is part of what has been described as the federal government’s “massive censorship enterprise,” which implicates the FBI as having an “extremely close role in working to censor freedom of speech.”<sup>1</sup>

2. In response to these reports, DTR filed its below-referenced FOIA requests in order to inform the public of the FBI’s actions. The documents sought by DTR, which include correspondence between the FBI and social media companies, is essential for the public’s understanding of FBI actions around the 2020 election and its apparent abuse of power and manipulation of public debate. The FBI has failed to provide DTR with the requested documents.

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<sup>1</sup> Brianna Herlihy, Fox News, FBI met weekly with Big Tech ahead of the 2020 election, agent testifies, Dec. 3, 2022, <https://www.foxnews.com/politics/fbi-weekly-big-tech-ahead-2020-election-agent-testifies>.

## **PARTIES**

3. Plaintiff, DTR, is a Texas 501(c)(4) non-profit organization located in Dallas County, Texas. It is a public interest group committed to defending the rule of law and this country's founding principles, including the right of free speech guaranteed by the First Amendment. It defends Americans who have been victimized by their government, fights unlawful government actions and mandates, and educates Americans about matters of public concern.

4. Defendant, FBI, is a federal agency of the United States Government under the meaning of 5 U.S.C. § 552(f)(1). It is in possession of the records sought by DTR. The FBI is located at 935 Pennsylvania Ave. NW, Washington, D.C. 20535-0001.

## **JURISDICTION AND VENUE**

5. This Court has jurisdiction under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331; venue is proper in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S. Code § 1391.

## **FACTUAL BACKGROUND**

6. On December 5, 2022, DTR submitted this FOIA request to the FBI: "Provide all e-mails to/from Assistant Special Agent in Charge Elvis Chan for the dates 1/1/2020 through 6/1/2022 containing any of the following terms: Hunter, Biden, Facebook, Twitter, Trump, misinformation, social media, laptop, disinformation, or misinformation." The FBI has not yet produced the requested records.

7. On December 17, 2022, DTR submitted the following FOIA requests to the FBI: "Provide all e-mails to/from Twitter from the FBI's San Francisco field office relating to user posts that violated Twitter terms of service or user posts that involved misinformation or disinformation. The time period for this request is from 10/1/2020 through 11/31/2020, and 1/5/2021 through 1/16/2021." It also requested: "Please provide all e-mail correspondence between SSA Elvis Chan

and the National Election Command Post containing any of the following terms: Twitter, Facebook, election, disinformation, or misinformation. The time period for this request is from 10/1/2020 through 11/31/2020, and 1/5/2021 through 1/16/2021.” The FBI has not yet produced responsive records.

8. On December 19, 2020, DTR submitted this FOIA request to the FBI: “Provide all e-mails to/from Twitter from the FBI’s Foreign Influence Task Force for the dates 6/1/2020 through November 31, 2020, and 1/5/2021 through 1/16/2021.” The FBI has acknowledged receipt of this request and assigned it FOIA Request No. 1576693-000. The FBI has not yet produced the requested records.

9. On December 19, 2020, DTR submitted this FOIA request to the FBI: “Provide all e-mails to/from Laura Dehmlow and James (“Jim”) Baker of Twitter for the dates 6/1/2020 through January 31, 2021.” The FBI has acknowledged receipt of this request and assigned it FOIA Request No. 1576695-000. The FBI has not yet produced the requested records.

10. On December 19, 2020, DTR submitted this FOIA request to the FBI: “Provide all e-mails to/from Matthew J. Perry (FBI OGC) and James (“Jim”) Baker of Twitter for the dates 6/1/2020 through January 31, 2021.” The FBI has acknowledged receipt of this request and assigned it FOIA Request No. 1576699-000. The FBI has not yet produced the requested records.

11. On January 4, 2023, DTR submitted this FOIA request to the FBI: “Please provide the ten documents sent via an e-mail Teleporter link on October 13, 2020 from FBI Supervisory Special Agent Elvis Chan to Twitter’s Yoel Roth. For reference, here is the e-mail from Chan to Roth mentioning the ten documents and the Teleporter link:  
<https://twitter.com/ShellenbergerMD/status/1604875478749171712/photo/1>”. The FBI has

acknowledged receipt of this request and assigned it FOIA Request No. 1578555-000. The FBI has not produced the requested records.

**COUNT 1: DEFENDANT'S VIOLATION OF FOIA, 5 U.S.C. § 552**

12. DTR incorporates the paragraphs above as though fully alleged herein.
13. The FBI is an agency subject to the requirements of FOIA.
14. The FBI has violated FOIA by failing to produce the records requested by DTR.
15. DTR is being irreparably harmed by the FBI's FOIA violations, and DTR will continue to be irreparably harmed unless the FBI is compelled to comply with its FOIA obligations.

**RELIEF REQUESTED**

16. DTR respectfully requests this Court:
  - A. Order the FBI to search for, and produce, all records responsive to DTR's FOIA request;
  - B. Require the FBI to demonstrate it employed search methods reasonably likely to lead to the discovery of records responsive to DTR's FOIA request;
  - C. Prevent the FBI from withholding non-exempt records that are subject to DTR's FOIA request;
  - D. Award DTR reasonable attorney fees and other litigation costs reasonably incurred in this action, consistent with 5 U.S.C. § 552 (a)(4)(E)(i); and
  - E. Award any other relief this Court may deem just and proper.

Dated: February 8, 2023.

Respectfully submitted,

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